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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U338E) for Approval of Contracts Resulting From Its 2014 Energy Storage Request for Offers (ES RFO).

Application 15-12-003  
(Filed December 1, 2015)

Application of Pacific Gas and Electric Company for Approval of Agreements Resulting from Its 2014-2015 Energy Storage Solicitation and Related Cost Recovery. (U39E)

Application 15-12-004  
(Filed December 1, 2015)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND  
ADMINISTRATIVE LAW JUDGE**

**Summary**

This ruling sets out the scope of the issues, adopts a procedural schedule, determines the categorization and need for hearings, and designates the Presiding Officer in the above-referenced application, pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules).<sup>1</sup> This ruling is appealable only as to categorization, pursuant to Rule 7.6.

**1. Procedural Background**

On December 16, 2010, the Commission opened Rulemaking (R.) 10-12-007 to implement the provisions of Assembly Bill (AB) 2514 (Stats. 2010, Ch. 469).

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<sup>1</sup> All subsequent citations to Rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

AB 2514 directed the Commission to determine appropriate targets, if any, for each Load-Serving Entity (LSE) as defined by Pub. Util. Code § 380(j) to procure viable and cost-effective energy storage systems and set dates for any targets deemed appropriate to be achieved.<sup>2</sup>

In response to this state mandate, the Commission adopted Decision (D.) 13-10-040, its “Decision Adopting Energy Storage Procurement Framework and Design Program.” The energy storage framework and procurement applications for the 2014 biennial period were subsequently approved in D.14-10-045.

In compliance with Ordering Paragraph (OP) 6 of D.14-10-045, on December 1, 2015, Southern California Edison Company (SCE) and Pacific Gas and Electric Company (PG&E) filed applications seeking approval of the results of their 2014 Energy Storage Request for Offers.<sup>3</sup> SCE seeks approval for three contracts for a total of 16.3 megawatts (MW).<sup>4</sup> PG&E seeks approval for five energy storage agreements and two purchase and sale agreements for a total of 75 MW.<sup>5</sup> In addition to their 2014 energy storage results, the investor-owned utilities also filed a joint proposal (Joint IOU Protocol) for the establishment of a Power Charge Indifference Adjustment (PCIA) methodology to recover above-market costs associated with departing load for market/“bundled” energy storage services procured via the 2014 solicitation.

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<sup>2</sup> Unless otherwise stated, all statutory references are to the Public Utilities Code.

<sup>3</sup> On November 25, 2015, Commission Executive Director Sullivan granted SDG&E an extension until March 30, 2016 to file its 2014 storage contracts.

<sup>4</sup> Totaling 1.3 MW lithium-ion batteries; 15 MW EOS batteries

<sup>5</sup> Totaling 42 MW lithium-ion batteries; 20 MW Flywheel; 13 MW Zinc-Air batteries

Protests were filed against both applications on January 15, 2016 by the Office of Ratepayer Advocates (ORA); Marin Clean Energy, Sonoma Clean Power, and the City of Lancaster (jointly CCA Parties); the Alliance for Retail Energy Markets and Direct Access Customer Coalition (jointly AReM/DACC); and Shell Energy North America (US), L.P. (Shell). Responses to the applications were filed in both proceedings by the California Energy Storage Alliance (CESA), and in PG&E's application by Golden Hills Energy Storage, LLC (Golden Hills). SCE and PG&E filed replies to protests on January 25, 2016. A prehearing conference (PHC) was held on March 10, 2016.

## **2. Scope of Issues**

In protests and discussion at the PHC, it is clear that there are three primary issues to be determined through the scope of this proceeding: the reasonableness of the contracts themselves, the classification of the energy storage contracts by type (which governs cost allocation), and the establishment of a market price benchmark for energy storage in the Joint IOU Protocol proposal for a PCIA methodology.

The reasonableness of the contracts themselves includes topics such as:

1. Were the solicitations conducted in a fair and competitive manner?
2. In selecting winners, did SCE and PG&E apply the evaluation methodologies approved in D.14-10-045 correctly?
3. Were any deviations from pro forma contracts approved in D.14-10-045 warranted?
4. Are the prices, terms, and conditions resulting from the solicitations reasonable?
5. Do the contracts promote safe and reliable operation and maintenance of the energy storage systems?

6. Must the Commission conduct a California Environmental Quality Act ("CEQA") review in this application in order to approve PG&E's purchase and sale agreements? (PG&E issue only)
7. Should the contracts be approved?

Based on discussion at the PHC, ORA appears to be the primary party that will pursue the issues regarding the reasonableness of the contracts themselves. Issues 1 through 4 are factual in nature and require testimony. Issues 5, 6, and 7 appear amenable to briefing and do not require testimony. Depending on the results of ORA's review of these matters, it is possible that evidentiary hearings may not be required. The schedule set forth includes briefings regardless of whether evidentiary hearings are required.

Most of the time at the PHC was spent on discussion surrounding the classification of the energy storage contracts by type (which governs cost allocation), and the establishment of a market price benchmark for energy storage in the Joint IOU Protocol proposal for a PCIA methodology. Several parties dispute how SCE and PG&E have characterized how the energy storage facilities will be interconnected and used. Parties agree that once a contract's asset characterization has been confirmed by the Commission, then cost allocation and the cost recovery vehicle is established by prior decisions. Thus, the Commission must decide whether SCE and PG&E have correctly characterized the asset type of their energy storage contracts.

In addition, there is not a meeting of the minds about what constitutes a market price benchmark for energy storage, and whether there is sufficient showing of the existence of stranded costs that should be recovered through the PCIA mechanism. Most parties argue that it is important for PCIA-related issues to be addressed in a consolidated fashion, though they do not agree on whether

these applications are the best venue, or whether Rulemaking (R.) 15-03-011 is a better venue.

In order to advance the discussion on these contentious topics, the parties supported the filing of comments by all parties to explicitly identify what attributes of storage should be captured in the market price benchmark (which would then become an element of the PCIA calculation) as well as a workshop following the comments to promote further discussion and the possibility of consensus building. The utilities agreed to construct a dummy contract for each energy storage asset type and evaluate it using the Joint IOU Protocol to illustrate how the Joint IOU Protocol works as part of the workshop.

Consistent with this effort, we request comments on:

1. What attributes of energy storage should be captured in the market price benchmark?
2. Have SCE and PG&E correctly characterized the asset types of their energy storage contracts? If not, how should the contracts be characterized? Why?
3. In light of your comments on Issues 1 and 2, would you modify the Joint IOU Protocol for the recovery of above-market energy storage costs in the PCIA? If so, how?<sup>6</sup> Please be as descriptive as possible, using numerical examples where applicable.

These are all issues that can be discussed at the workshop described above. We direct Energy Division to notice a workshop consistent with this guidance.

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<sup>6</sup> In their applications, SCE and PG&E proposed that they should be allowed PCIA recovery for the life of the contract rather than only the first ten years. For the purposes of the 2014 storage contracts, this issue was previously decided by the Commission in D.14-10-045, and is therefore outside the scope of this proceeding.

### **3. Consolidation**

We are convinced that the administrative simplicity of handling these applications in a consolidated manner outweighs any potential burden to the applicants of consolidation. In addition, although the issues surrounding the market price benchmark for energy storage and the asset characterization could be addressed separately, we are convinced that it is timelier to address them here. Therefore, A.15-12-003 and A.15-12-004 are consolidated. Approximately two weeks after San Diego Gas & Electric Company (SDG&E) files its application for approval of its 2014 Energy Storage Contracts, Administrative Law Judge (ALJ) Cooke will convene a conference call to determine whether that application should be consolidated as well. However, SDG&E is made a party to these proceedings for purposes of the Joint IOU Protocol proposal for a PCIA methodology.

### **4. Schedule**

At the PHC, the parties agreed to a schedule to address all of the issues surrounding contract reasonableness. The schedule the parties proposed is designed to ensure resolution of the issues prior to a decision on SCE's and PG&E's 2016 Energy Storage Procurement Plan. The schedule provides an opportunity for ORA (or other parties) to request evidentiary hearings concurrent with their opening testimony, if they believe there are material issues of fact that are in dispute. The request shall identify each area of relevant factual inquiry that has not been addressed and identify each material contested issue of fact on which hearings should be held (explaining, as necessary, why the issue is material). The remainder of the schedule is then presented with two variations; one where evidentiary hearings are held, and the other where they are not.

Regardless of whether evidentiary hearings are held or not, we anticipate completing consideration of this application well within the statutory requirement in Public Utilities Code §1701.5 of 18 months or less after the issuance of this Scoping Memo.

<b>Item/Action</b>	<b>Date</b>
Opening testimony, including request for evidentiary hearings	April 25, 2016
Comments on market price benchmark and asset characterization	May 2, 2016
Workshop on market price benchmark and asset characterization	May 9, 2016
Rebuttal testimony	May 16, 2016
<b><i>Remaining schedule if no evidentiary hearings are requested:</i></b>	
Concurrent Opening Briefs	May 25, 2016
Concurrent Reply Briefs	June 1, 2016
Proposed Decision issued for comment	Target: July 29, 2016
<b><i>Remaining schedule if evidentiary hearings are held:</i></b>	
Evidentiary hearings	June 2-3, 2016 at 9:00 a.m. Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
Concurrent Opening Briefs	June 24, 2016
Concurrent Reply Briefs	July 8, 2016
Proposed Decision issued for comment	Target: September 23, 2016

## **5. Categorization and Need for Hearings**

The Commission preliminarily determined that this proceeding would be categorized as “ratesetting” as defined by Rule 1.3(e) and preliminarily

determined that hearings are needed. In this Scoping Memo, we affirm these determinations in accordance with Rule 7.1. The proceeding categorization as “ratesetting” determination is appealable pursuant to Rule 7.6.

Commissioner Carla J. Peterman is the assigned Commissioner for this proceeding. Administrative Law Judge Michelle Cooke is designated as the Presiding Officer for this proceeding. Administrative Law Judge Regina DeAngelis is co-assigned.

## **6. Ex Parte Communications**

This proceeding is subject to Rules 8.2, 8.2(c), 8.3 and 8.4 of the Commission’s Rules of Practice and Procedure with respect to *ex parte* communications in ratesetting proceedings. We do anticipate that there will be workshops in this proceeding, and any notices of such workshops will be posted on the Commission’s Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar for such notices.

## **7. Service List**

The most current service list for this proceeding is maintained by the Commission’s Process Office and posted on the Commission’s web site, [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Parties are responsible for ensuring that the correct information is contained on the service list, including limiting the persons listed in the “Parties” category to one person per organization. Parties should note that the maintenance of party status requires active participation in the proceeding, e.g. submitting formal filings, participating in workshops, etc. The assigned ALJ may remove party status if a party is not actively participating in the proceeding. Parties removed from party status will be placed in the Information Only category. Additional persons may be listed as “Information Only.” Parties are

required to notify the Process Office and other parties of corrections or changes to the service list, in accordance with Rule 1.9(f).

Requests for party status must be made by motion, in accordance with Rule 1.4.

## **8. Documents**

All documents in this proceeding must be filed and served in accordance with the Commission's Rules with the exception of the requirements in Rules 1.9(e) and 1.10(c) to serve a copy of the certificate of service/service list, which are suspended for this proceeding. Documents should be served in the format in which they were filed (typically PDF), or in the format required by any ruling of the assigned ALJ. Parties should promptly provide documents in the underlying format (e.g., Microsoft Word) upon timely request by another party.

In addition, because testimony is anticipated, parties submitting testimony should follow the protocols for submitting Supporting Documents set forth at (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>).<sup>7</sup> The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedure including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with Commissioners and advisors (i.e. "*ex parte* communications") or other matters related to a proceeding. Consistent with the requirements for all formally filed documents, all documents submitted through the "Supporting Documents"

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<sup>7</sup> Applicant should promptly submit the public version of its testimony in support of its application in the Supporting Documents feature, no later than April 1, 2016.

feature must be in PDF/A format. The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the Administrative Law Judge (ALJ)), and does not replace the requirement to serve documents to other parties in a proceeding. Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the Commission. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e. "record") unless accepted into the record by the ALJ.

Commissioner Peterman and ALJ Cooke should receive documents by e-mail only unless otherwise specified. If the Commissioner or ALJ request hard copies, the hard copies should be printed on both sides of the page, be stapled, and include a copy of the certificate of service. Hard copies should not include a copy of the service list, a cover sheet, or copies for more than one person in the same envelope.

## **9. Discovery**

To the extent discovery is conducted in this proceeding, this proceeding will follow the general rule of no more than ten working days to respond to data requests. This rule will apply to all parties. If a longer response time is required, the party preparing the response shall so notify the requesting party and indicate when the response will be sent. Such notice should be provided as soon as possible, but no later than ten days after receipt of the request. If parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the Commission pursuant to Rule 10.1.

## **10. Final Oral Argument**

A party in a ratesetting proceeding or phase of a proceeding in which an evidentiary hearing was held has the right to make a Final Oral Argument (FOA) before the Commission, if the FOA is requested within the time and manner specified in the Scoping Memo or later ruling (Rule 13.13). If a hearing has been held, parties should use the following procedure for requesting FOA, unless a later ruling provides different instructions. If a hearing has not been held, these procedures do not apply.

Any party seeking to present FOA may file and serve a motion at any time that is reasonable, but no later than the date that reply briefs are due. The motion must state the request, the subject(s) to be addressed, the amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion must contain all the information necessary for the Commission to make an informed ruling on the motion, providing for an efficient, fair, equitable and reasonable FOA. If more than one party plans to move for FOA, parties must use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. A response to the motion may be filed within five days of the date of the motion.

If a final determination is later made that no hearing is required, Rule 13.13 will cease to apply, along with a party's right to make an FOA.

## **11. Intervenor Compensation**

Any party that expects to request intervenor compensation for its participation in this rulemaking must file its notice of intent to claim intervenor compensation in accordance with Rule 17.1 and Sections 1801-1812. Because the

PHC was held on March 10, 2016, that deadline is April 9, 2016, at 5:00 PM (PDT).

**IT IS RULED** that:

1. The scope of issues and schedule set forth above are hereby adopted for these proceedings.
2. Application 15-12-003 and Application 15-12-004 are consolidated.
3. The assigned Commissioner and/or Administrative Law Judge may modify the schedule set forth in this scoping memo as needed.
4. The duration of this proceeding is 18 months from the date of this scoping memo and ruling.
5. This proceeding is categorized as ratesetting, as that term is defined in Public Utilities Code Section 1701.1(c)(3). This determination is appealable pursuant to Rule 7.6.
6. Hearings may be needed in this proceeding.
7. *Ex parte* communications restrictions and reporting requirements of Rule 8.2, 8.2 (c), 8.3, and 8.4 apply to this proceeding.
8. Party status may be requested by filing a motion for party status according to Rule 1.4.
9. Applicant shall promptly submit the public version of its testimony in support of its application in the Supporting Documents feature, no later than April 1, 2016.
10. Parties shall submit their testimony and exhibits, in the event that hearings are held, through the "Supporting Documents" feature on the Commission's Electronic Filing System. Instructions for Using the "Supporting Documents" feature are contained in (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>).

11. Parties shall use the Naming Convention for Electronic Submission of Supporting Documents

(<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).

12. All documents submitted through the “Supporting Documents” feature shall be in PDF/A format.

13. Any party requesting intervenor compensation must file notices of intent to claim intervenor compensation in this proceeding within 30 days of the March 10, 2016 Prehearing Conference.

14. Any party seeking to present FOA may file and serve a motion at any time that is reasonable, but no later than the date that reply briefs are due.

15. Commissioner Carla J. Peterman is the assigned Commissioner for this proceeding.

16. Administrative Law Judge (ALJ) Michelle Cooke is the Presiding Officer for this proceeding.

Dated March 25, 2016, at San Francisco, California.

/s/ CARLA J. PETERMAN

Carla J. Peterman  
Assigned Commissioner

/s/ MICHELLE COOKE

Michelle Cooke  
Administrative Law Judge